

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS (EASTERN DIVISION)

Comcast of Georgia/Massachusetts, Inc. and Comcast of Middletown, Inc. and Comcast of Boston, Inc. and Comcast of California/ Massachusetts/ Michigan/Utah, Inc. and Comcast of Maine/New Hampshire, Inc. and Comcast of Massachusetts I, Inc. and Comcast of Massachusetts II, Inc. and Comcast of Massachusetts III, Inc. and Comcast of Massachusetts/New Hampshire/Ohio, Inc. and Comcast of New Hampshire, Inc.

Case No.: 04-cv-10414-RCL

**AFFIDAVIT OF PAUL MARMELO
IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION AND
IMPOUNDMENT ORDER**

Plaintiffs,

vs.

Joseph Amaro, Dimas Amaro, and Joseph Amaro and Dimas Amaro, Jointly d.b.a. CABLEJOINT and D's Electronics

Defendants

Now comes the affiant, and makes this his sworn statement, under the pains and penalties of perjury, of his own personal knowledge.

FACTUAL ASSERTIONS

1. I, Paul Marmelo, am an employee of the Plaintiff, Comcast of Massachusetts I, Inc.
2. I am employed with Comcast of Massachusetts I, Inc. as an Area Piracy Specialist.
3. I am familiar with cable technology, descrambling methodology and black market technology.
4. Comcast provides telecommunications services, including cable television services, to subscribers in the Comcast's systems located in Connecticut, New Hampshire,

Massachusetts, and 41 other states pursuant to franchise agreements with various municipalities.

5. In order to protect its signals and maintain the value of its services, Comcast electronically encrypts or scrambles some of its signals so that they must first be decoded by electronic decoding equipment in order to be viewed clearly on a television receiver.
6. Certain devices, commonly known as "black boxes" are actually unauthorized non-addressable descrambling devices. Black boxes are capable of defeating Comcast's encoding and scrambling technology in that the black boxes will descramble all signals (including premium channels and pay-per-view events) whether the individual has paid to receive the signal or not. Black boxes will not take instructions regarding what the user is authorized to receive; they cannot be "addressed."
7. There is no legitimate use for a black box. There are, however, other legitimate devices related to cable signals:
 - A. A converter is a device that converts the signals carried in a coaxial cable into signals a television can utilize. Most modern televisions have this conversion capability built-in; they are "cable ready." Modern televisions do not need a converter. Most importantly, a converter does not descramble any signals. A consumer could legitimately utilize a simple converter to make an older television "cable ready," but such a converter would not descramble any scrambled signals; and
 - B. Cable companies issue/lease most of their subscribers a device called an "addressable converter/descrambler." These devices convert signals for older televisions that are not "cable ready" and they descramble signals based upon the instructions that the cable company sends to the addressable converter/descrambler. The crucial element of the addressable converter/descrambler is that it is "addressable". That means the cable

company can "address" the descrambler. "Addressability" refers to the descramblers ability to descramble signals based only upon the instructions that it receives from the cable company.

A "black box" is not a simple converter (although some models may have the ability to convert signals for older non-cable ready TVs). A "black box" is a descrambler. However, it is not an addressable converter/descrambler. Rather, it is a non-addressable descrambler that is specifically designed to ignore or refuses to accept any instructions from the cable company as to what signals to descramble. The "black box" is designed to descramble all stations, all premium stations, all pay-per-view movies and all pay-per-view events, twenty-four hours a day, seven days a week regardless of any instructions from the cable company. There is no legitimate use for such a device.

8. From my experience with Comcast, I have become familiar with many various makes and models of "black boxes." I also have the ability and equipment to test these devices to determine if they actually function as a non-addressable de-scramblers, or so called "black boxes." Through testing I can determine whether a particular device actually successfully de-scrambles cable-television signals without authorization.
9. On or about June 25, 2001, I went to the Taunton police department headquarters, the location of the black boxes that were seized at the United Parcel Service ("UPS") terminal and at the Amaro home.
10. Upon my inspection of the boxes seized from at UPS, I determined that each of the twenty-four (24) black boxes seized, except one, were able to receive and de-scramble premium channels and pay-per-view movies without authorization.
11. Upon my inspection of the boxes seized at the Amaro home, two of the six boxes were able to receive and de-scramble premium channels and pay-per-view movies without authorization.

Subscribed and sworn to, under the pains and penalties of perjury, this 15th day of
April, 2004.

Paul Marmelo

Paul Marmelo,
Area Piracy Specialist
c/o Comcast of Massachusetts I, Inc.
440 Myles Standish Boulevard
Taunton, MA 02780

Susan M. Marks

Notary Public

My Commission Expires

8/26/05